

RESOLUTION NO. 37-79

A RESOLUTION OF THE NAVAJO COUNTY BOARD OF SUPERVISORS ACCEPTING
GRANT OFFER OF THE UNITED STATES OF AMERICA FOR AIRPORT DEVELOPMENT
ASSISTANCE PROJECT NO. ADAP 5-04-0035-01

WHEREAS; Navajo County is in the process of improving the Show Low
Airport and

WHEREAS; A grant offer for Project ADAP 5-04-0035-01 has been
received from the United States of America through the Federal Aviation
Administration in the amount of \$281,540.00 for the purpose of obtaining
Federal Aid for Project No. ADAP 5-04-0035-01, and the County Administrator
is hereby authorized and directed to sign the statement of acceptance of
said Grant Offer (entitled Part 11 - Acceptance) on behalf of the Navajo
County Board of Supervisors and is authorized to process the official seal
of the County on the said statement of acceptance; a true copy of the Grant
Offer referred to herein is attached hereto and made a part hereof.

PASSED AND ADOPTED at a regular meeting of the County Board of Supervisors
held June 12, 1979.

Norman H. Turley
NORMAN H. TURLEY, CHAIRMAN

ATTEST:

Constance J. Mayon
Clerk of the Board

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

GRANT AGREEMENT

Part 1-Offer

Date of Offer June 1, 1979

Show Low Municipal

Airport

Project No. 5-04-0035-01

Contract No. DOT-79-WE-4847

TO: Navajo County, Arizona
(herein referred to as the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration,
herein referred to as the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application (herein called an Application for Federal Assistance) dated December 21, 1978, for a grant of Federal funds for a project for development of the Show Low Municipal Airport (herein called the "Airport"), together with plans and specifications for such project, which Application for Federal Assistance, as approved by the FAA is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for development of the Airport (herein called the "Project") consisting of the following-described airport development:

Overlay and mark Runway 6/24 including turnaround (approx. 6,000' x 75'), connecting taxiway (approx. 1300' x 40') and apron (approx. 353' x 177').

all as more particularly described in the property map and plans and specifications incorporated in the said Application for Federal Assistance.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.), and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Application for Federal Assistance, and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and the operation and maintenance of the Airport as herein provided, THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States share of the allowable costs incurred in accomplishing the Project,

90 per centum of allowable costs

This Offer is made on and subject to the following terms and conditions:

1. The maximum obligation of the United States payable under this Offer shall be \$ 281,540.00.
2. The Sponsor shall:
 - a. begin accomplishment of the Project within 30 days after acceptance of this Offer or such longer time as may be prescribed by the FAA, with failure to do so constituting just cause for termination of the obligations of the United States hereunder by the FAA;
 - b. carry out and complete the Project without undue delay and in accordance with the terms hereof, the Airport and Airway Development Act of 1970, as amended, and the Regulations of the FAA (14 CFR Part 152) in effect as of the date of acceptance of this Offer; which Regulations are hereinafter referred to as the "Regulations";
 - c. carry out and complete the Project in accordance with the plans and specifications and property map, incorporated herein, as they may be revised or modified with the approval of the FAA;
 - d. submit all financial reports on an accrual basis and if records are not maintained on an accrual basis, reports may be based on analysis or records or best estimates as required by the Regulations;
 - e. monitor performance under the Project to assure that time schedules are being met, projected work units by time periods are being accomplished, and that other performance goals are being achieved as established by the Regulations.

3. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Regulations.
4. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of the Regulations. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs. The grant closeout requirements will be in accordance with the Regulations.
5. The Sponsor shall operate and maintain the Airport as provided in the Application for Federal Assistance incorporated herein and specifically covenants and agrees in accordance with its Assurance 20 in Part V of said Application for Federal Assistance, and Section 30 of the Airport and Airway Development Act, as amended, that in its operation and the operation of all facilities thereof, neither it nor any person or organization occupying space or facilities thereon will discriminate against any person by reason of race, color, creed, national origin or sex in the use of the facilities provided for the public on the airport.
6. The FAA reserves the right to amend or withdraw this Offer at any time prior to its acceptance by the Sponsor.
7. This Offer shall expire and the United States shall not be obligated to pay any part of the costs of the Project unless this Offer has been accepted by the Sponsor on or before June 29, 1979 or such subsequent date as may be prescribed in writing by the FAA.
8. The Sponsor agrees to effectuate the purposes of Section 30 of the Airport and Airway Development Act of 1970, as amended, by assuring that minority business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds provided under this agreement. For the purposes of this provision, "minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, religious, sex, national origin, chronic economic circumstances or background or other similar cause. Such persons may include, but are not limited to, blacks, not of Hispanic origin; persons of Hispanic origin; Asians or Pacific Islanders; American Indians; and Alaskan natives. Grantee further agrees to comply with such Regulations as may be issued by the Federal Aviation Administration to implement Section 30 of the Act.

9. The Sponsor will send a copy of all Invitations for Bids, advertised or negotiated, for concessions or other business at the airport to the appropriate Office of Minority Business Enterprise (OMBE) representative as identified by the FAA Regional Civil Rights Office. The Sponsor will disclose and make information about the contracts, contracting procedures and requirements available to the designated OMBE representative and minority firms on the same basis that such information is disclosed and made available to other organizations or firms. Responses by minority firms to Invitations for Bids shall be treated in the same manner as all other responses to the Invitation for Bids. Compliance with the preceding will be deemed to constitute compliance by the Sponsor with requirements of 49 CFR 21 Appendix C(a)(1)(x), Regulations of the Office of the Secretary of Transportation.
10. The Sponsor hereby agrees and covenants that any and all flood insurance coverage required by the Flood Disaster Protection Act of 1973 (P.L. 93-234), with respect to the buildings and/or personal property to be constructed and/or acquired under this project will be purchased prior to the acquisition or construction of any insurable interest and shall be maintained during the useful life of such buildings or personal property.
11. It is understood and agreed that the Sponsor will provide for FAA employees adequate parking accommodations satisfactory to the Administrator at all FAA technical facilities (Air Navigation and Air Traffic Control facilities) located on the airport. It is further understood and agreed that Sponsor will provide, without cost, adequate land for the purpose of parking all official vehicles of the FAA (government and privately owned when used for FAA business) necessary for the maintenance and operation of the FAA facilities on the airport. Such land shall be adjacent to the facilities served.
12. It is understood and agreed by and between the parties hereto, that pursuant to FAR Part 152, Section 152.64, the FAA may by written notice terminate or suspend this Grant in whole or in part, or withhold payment if it finds that the Sponsor has failed to comply with the conditions of the Grant or if it finds that continuation of the project would not produce beneficial results.

13. Assurance Number 18 of Part V of the Application for Federal Assistance incorporated herein is amended by including at the end of the second sentence the following language:

"including the requirement that (A) each air carrier, authorized to engage directly in air transportation pursuant to Section 401 or 402 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any sponsor provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator using a general aviation airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed base operators making the same or similar uses of such airport utilizing the same or similar facilities; provision (A) above, shall not require the reformation of any lease or other contract entered into by a sponsor before July 12, 1976. A sponsor shall not require the reformation of any lease or other contract entered into by a sponsor before July 1, 1975."

14. It is understood and agreed that no part of the Federal share of an airport development project for which a grant is made under the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.), or under the Federal Airport Act, as amended (49 U.S.C. 1101 et seq.), shall be included in the rate base in establishing fees, rates, and charges for users of the airport.
15. The Sponsor hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee the following Equal Opportunity clause:

(a) During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of 24 September 1965, and of the rules and regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contractors or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of 24 September 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 1965, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of 24 September 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions, for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Sponsor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Sponsor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency with the Secretary

of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Sponsor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of 24 September 1965 with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or by the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Sponsor agrees that if it fails or refuses to comply with these undertakings the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Sponsor under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the Sponsor; or refer the case to the Department of Justice for appropriate legal proceedings.

- (b) State and local governments intending to impose affirmative action hiring and/or training requirements of federally assisted construction already subject to federal minority hiring and/or training plans established pursuant to the Order shall submit such requirements to the Director prior to their inclusion in any federally assisted construction contracts. Such state or local government requirements will be deemed applicable to federally assisted construction contracts unless the Director, or in the case of an appeal of the Director's determination, the Assistant Secretary for Employment Standards, determines that such requirements are inconsistent with the Order or incompatible with the effective implementation of the federal minority hiring and/or training plan (either voluntary or imposed) in the area. The state or local government affirmative action hiring and/or training requirements shall not be included in federally assisted construction contracts until the Director, or in the case of an appeal, the Assistant Secretary, has had an opportunity to make a determination in accordance with this paragraph. The Director shall make his determination within 60 days of his receipt of the state or local government's submission, which should include the pertinent affirmative action hiring and/or training requirements and supporting data.

The Director may also request the state or local government to supply information and data necessary for his determination. The Director's determination shall be communicated directly to the state or local governmental body by registered mail, return receipt requested, together, in the case of an adverse determination, with a notification of its right to appeal to the Assistant Secretary. The Director's determination shall also be announced in a Federal Register notice, which shall also indicate that the state or local government, and any other persons or groups affected by the Director's determination, including construction trades contractors, labor organizations, associations or other organizations of construction trades contractors and/or labor organizations, and minority community groups, may appeal such determination to the Assistant Secretary by requesting a hearing within 21 days of the publication of the Federal Register notice. Following this appeal period, if any requests for a hearing have been filed with the Assistant Secretary, the Department of Labor shall then designate an administrative law judge who shall conduct a hearing to make proposed findings and a recommended decision to the Assistant Secretary upon the basis of the record before him. The administrative law judge shall give reasonable notice of the opportunity to participate in such hearing by registered mail, return receipt requested, to those requesting the hearing and shall also give reasonable notice of such hearing in the Federal Register to inform all other persons, organizations, and other entities affected by the Director's determination of their opportunity to participate in the hearing. Each participant shall have the right to counsel and a fair opportunity to present his case, including such cross-examination as the administrative law judge may deem appropriate in the circumstances. Within 80 days of the close of the appeal period for requesting a hearing, the Assistant Secretary shall make a final decision on the basis of the record before him, which shall consist of the record for recommended decision, the rulings and recommended decision of the administrative law judge, and the exceptions and briefs filed subsequent to the administrative law judge's decision. In determining whether state or local government affirmative action hiring and/or training requirements are inconsistent with the Order or incompatible with the effective implementation of the applicable federal minority hiring and/or training plan in the area, at least the following factors shall be considered under this subparagraph; (i) the impact of the state or local government requirements on the successful implementation of the federal plan in the area; (ii) the minority population in the

area to be covered by the state or local government plan; (iii) the minority manpower utilization in the area construction industry, on a trade-by-trade basis; (iv) the availability of minorities for employment in the area construction industry; (v) the need and availability of training programs in the area construction industry; (vi) the projected growth and attrition factors of the area construction industry in the near future; (vii) available procedures to ensure that contractors, subcontractors and others are provided with notice and a full opportunity to contest allegations of noncompliance; and (viii) assurances that the state or local government minority hiring and/or training requirements are not intended and shall not be used to discriminate against any qualified person on the basis of race, color, religion, sex or national origin. State and local governments are encouraged: to participate in the formulation and implementation of federal minority hiring and/or training plans consonant with the aforementioned criteria in areas currently without such plans; to enforce their fair employment practices laws with respect to acts of discrimination affecting federally assisted construction and to assist the administering Federal agency in monitoring the compliance of contractors and subcontractors performing on federally assisted projects. For purposes of this subparagraph. "Assistant Secretary" means the Assistant Secretary for Employment Standards or his designee.

16. By acceptance hereof, the Sponsor hereby covenants that, within five (5) years from the date of acceptance of the Grant, it will acquire, with or without Federal aid, fee title or such lesser property interest as may be found satisfactory to the FAA for clear zones for Runway 6/24*
17. The Federal Government does not now plan or contemplate the construction of any structures pursuant to Paragraph 9 of Part III - Sponsor's Assurances - of the Application for Federal Assistance dated December 21, 1978 and, therefore, it is understood and agreed that the Sponsor is under no obligation to furnish any areas or rights without cost to the Federal Government under this Grant Agreement. However, nothing contained herein shall be construed as altering or changing the rights of the United States and/or the obligations of the Sponsor under prior Grant Agreements to furnish rent-free space for the activities specified in such agreements.

*It being understood that Sponsor has only a leasehold interest in property owned by the United States of America, for which fee title cannot be obtained.

The Sponsor's acceptance of this Offer and ratification and adoption of the Application for Federal Assistance incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and said Offer and Acceptance shall comprise a Grant Agreement, as provided by the Airport and Airway Development Act of 1970, as amended, constituting the obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and the operation and maintenance of the Airport. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer and shall remain in full force and effect throughout the useful life of the facilities developed under the Project but in any event not to exceed twenty years from the date of said acceptance.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

By T. L. SCHLESINGER
Acting Chief, (Title) Programs Branch

Part II - Acceptance

The Sponsor, Navajo County does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Application for Federal Assistance and incorporated materials referred to in the foregoing Offer and does hereby accept said Offer and by such acceptance agrees to all of the terms and conditions thereof.

Executed this 27th day of June, 19 79

NAVAJO COUNTY

(Name of Sponsor)

By Howard J. Holben

Title..... County Manager

(SEAL)

Attest: Connie J. Mason

Title: Clerk of the Board of Supervisors

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Jay V. Flake, acting as Attorney for Sponsor, Navajo County, (herein referred to as the "Sponsor") do hereby certify:

That I have examined the foregoing Grant Agreement and the proceedings taken by said Sponsor relating thereto, and find that the Acceptance thereof by said Sponsor has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of and the Regulations and further that, in my opinion, said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Holbrook this 27th day of June, 19 79.

Jay V. Flake

Title County Attorney